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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 LEONARD C. ADAMS, *et al.*,) Case No. 3:11-cv-00210-RCJ-VPC
13)
14 Plaintiffs,)
15)
16 v.)
17)
18 COMPASS PARTNERS, LLC, *et al.*,)
19)
20 Defendants.)
21)

22 **STIPULATION / JOINT MOTION TO EXTEND DISPOSITIVE MOTION AND**
23 **PROPOSED JOINT PRETRIAL ORDER DUE DATES PENDING COMPLETION OF**
24 **PROPOSED SETTLEMENT (FOURTH REQUEST)**
25 **AND**
26 **REQUEST FOR STATUS CONFERENCE**

27 The Plaintiff Direct Lenders, by and through their attorneys Michael J. Collins and
28 Robert M. Millimet of Brewer, Attorneys and Counselors and Lisa Rasmussen of the Law Office
29 of Lisa Rasmussen, Plaintiff Direct Lender Daniel Newman, by and through his attorneys
30 Michael J. Collins and Robert M. Millimet of Brewer, Attorneys and Counselors and David
31 Clark of Lipson, Neilson, Cole, Seltzer & Garin, P.C., Defendants David Blatt, Jay Cohen,
32 Leonard Mezei, Ron Friedman, Compass Financial Partners, LLC, Compass FP Corp., Compass
33 Partners, LLC, Compass USA GP, LLC, Compass USA Holding, LLC, Compass USA, LP,
34 Compass USA SPE, LLC, Economic Growth Group, Inc., and Repotex, Inc. (collectively, the
35 “Compass Defendants”), by and through their attorneys Daniel T. Hayward and Holly S. Parker

1 of Laxalt & Nomura, Ltd., and Defendant Mark L. Olson, in pro per, hereby stipulate and jointly
2 move the Court pursuant to LR IA 6-1, LR II 26-4, and FRCP 16(b)(4) for an Order extending
3 the existing June 2, 2018 dispositive motion deadline and the existing July 31, 2018 proposed
4 Joint Pretrial Order due date.

5 **The Plaintiff Direct Lenders and Compass Defendants' representatives have signed**
6 **a proposed Settlement Agreement, and the Plaintiff Direct Lenders will soon be filing a**
7 **Motion for Approval of Settlement.** However, there is insufficient time between now and the
8 June 2, 2018 dispositive motion due date for the forthcoming Motion for Approval of Settlement
9 to be fully briefed (in the event any opposition is filed) and decided by the Court.¹ And, the
10 parties believe that the filing of a motion for summary judgment in the interim would likely be
11 damaging to the cause of settlement. Further, if the proposed settlement is approved but one or
12 more claims by non-settling Plaintiff Direct Lenders remain, the parties would be able to draft far
13 more streamlined dispositive motions and a Joint Pretrial Order *after* it has been determined
14 which specific loans – if any -- remain at issue.
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17 The Plaintiff Direct Lenders are confirming their settlement vote totals and assessing how
18 best to achieve Court approval of the settlement. Thus, the parties respectfully request that the
19 Court set a status conference in approximately 60 days to discuss this case, including the Court's
20 approval of the forthcoming Motion for Approval of Settlement.

21 This is the parties' fourth request for a continuance of these pretrial due dates and the
22 related requested relief. It is the parties' first request for a status conference regarding these
23 issues.
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1 The proposed Settlement Agreement has been approved by each of the Plaintiff Direct
Lenders who were awarded damages against the Compass Defendants in the "892 Case," and
who are appellees in those Compass Defendants' pending Ninth Circuit appeal. Thus, the
proposed Settlement Agreement, if approved by the Court, will result in the dismissal of that
pending appeal and the entry of a satisfaction of judgment regarding the 892 Case.

1 **A. Procedural history.**

2 This case was originally filed on March 6, 2011, by the Plaintiff Direct Lenders against
3 the Compass Defendants and numerous other Defendants. Following various motions to dismiss,
4 pleading amendments, and settlements, Plaintiffs filed a Second Amended Complaint on
5 November 1, 2012 against the Compass Defendants, Oakbridge Capital Inc., Mark Olson,
6 Windemere Capital, LLC, Tyson Lomazow, and the Citron Defendants. (ECF No. 176.)

7 The Compass Defendants filed an Answer and Affirmative Defenses to Second Amended
8 Complaint in November 21, 2012. (ECF No. 179.)

9 Mark Olson filed an Answer in pro per on August 15, 2011. (ECF NO. 71.)

10 On January 7, 2013, the Plaintiff Direct Lenders and Compass Defendants submitted a
11 Joint Proposed Case Management Order. (ECF No. 193.) On January 14, 2013, the Magistrate
12 Judge entered Minutes of Proceedings concerning the telephonic Case Management Conference
13 held earlier that day. (ECF No. 194.) It does not appear that a formal Discovery Plan and
14 Scheduling Order was entered, presumably because the parties' efforts were completely focused
15 on settlement. The parties proceeded to participate in periodic status conferences with the Court.

16 On March 11, 2013, Defendant Tyson Lomazow was dismissed from the case. (ECF No.
17 216.) On January 28, 2015, the claims against Defendants Oakbridge Capital Inc., Windemere
18 Capital, LLC, and the Citron Defendants were dismissed. (ECF No. 218.)

19 Meanwhile, the parties to the "892 Case," which is on appeal before the Ninth Circuit
20 Court of Appeals, entered into settlement negotiations in the course of the appellate process. The
21 scope of those negotiations was enlarged to include the parties and claims in this 210 Case in the
22 hope of reaching a global resolution. On January 6, 2014, this Court entered an Order in the 892
23 Case (ECF No. 2356) setting a settlement conference before Judge Zive, which was held on
24 January 30, 2014. On May 28, 2014, this Court entered an Order in the 210 Case (ECF No. 217)
25 to facilitate the second session of the settlement conference with Judge Zive, which took place on

1 July 31, 2014. Very lengthy and complex negotiations continued between the Compass
2 Defendants and a representative of the Plaintiff Direct Lenders, under the general oversight of
3 the Ninth Circuit mediator, which ultimately culminated in the execution of a written proposed
4 Settlement Agreement by the Compass Defendants and the representative of the Plaintiff Direct
5 Lenders in October 2016, subject to the affirmative vote of the Plaintiff Direct Lenders and
6 approval by the Court.²

7
8 During a January 26, 2017 status conference, the Court set this matter for a two-week
9 jury trial commencing June 19, 2017. (ECF No. 243.) This was the first trial date which had
10 been set in this case. On May 26, 2017, the remaining parties submitted a Stipulation / Joint
11 Motion to Continue Trial in Light of Pending Proposed Settlement Agreement, and if Necessary
12 to Re-Open Discovery, and Set Scheduling Order. (ECF No. 246.) The Court entered an Order
13 granting the Stipulation / Joint Motion. (ECF No. 248.) The parties submitted a Proposed
14 Discovery Plan and Scheduling Order on June 5, 2017 (ECF No. 249), which the Court approved
15 on July 27, 2017 (ECF No. 251).

16
17 On November 28, 2017 the remaining parties submitted a Stipulation / Joint Motion to
18 Extend Dispositive Motion and Proposed Joint Pretrial Order Due Dates Pending Completion of
19 Proposed Settlement (Second Request). (ECF No. 254.) The Court entered an Order granting
20 the Stipulation / Joint Motion on December 13, 2017 (ECF No. 256), after the parties filed a
21 Notice of Pending Vote re: Proposed Settlement Agreement on December 12, 2017 (ECF No.
22 255).

23
24 On March 28, 2018, the remaining parties submitted a Stipulation / Joint Motion to
25 Extend Dispositive Motion and Proposed Joint Pretrial Order Due Dates Pending Completion of
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27 ² On May 16, 2016, the Court authorized attorney David Clark of Lipson, Neilson, Cole,
28 Seltzer & Garin, P.C., to substitute in the place of attorney Lisa Rasmussen for Plaintiff Daniel
29 Newman. (ECF No. 229.)

1 Proposed Settlement (Third Request). (ECF No. 260.) The Court entered an Order granting the
2 Stipulation / Joint Motion on March 29, 2018 (ECF No. 261).

3 Since March 29, 2018, the Plaintiff Direct Lenders' representatives and counsel have
4 continued to work diligently to communicate with, and tally the settlement votes of, the Plaintiff
5 Direct Lenders. That process is not quite complete. Thus, the Compass Defendants are unable
6 to comply with the current June 2, 2018 dispositive motion deadline because it is not yet known
7 which loans, if any, will remain at issue if the proposed Settlement Agreement is approved by the
8 Court.

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10 For these reasons, the Plaintiff Direct Lenders, the Compass Defendants, and Mark L.
11 Olson respectfully stipulate and jointly move the Court to extend the current June 2, 2018
12 dispositive motion deadline by 90 days and the current July 31, 2018 proposed Joint Pretrial
13 Order by at least 59 days, and to set a status conference in approximately 60 days, so as to
14 facilitate the completion of the Settlement Agreement approval process by the Court and the
15 possible global resolution of both this 210 Case and the 892 Case, or alternatively the
16 economical processing of the remaining claims at issue in this case.

17
18 **B. Statement of discovery completed to-date (per LR II 26-4).**

19 The Plaintiff Direct Lenders, by and through their representative, have conducted certain
20 confidential financial discovery with regard to the individual Compass Defendants in furtherance
21 of the settlement conference process with the assistance of Judge Zive and the Ninth Circuit
22 mediator.

23
24 The Compass Defendants have served their FRCP 26(a)(1) Disclosure on March 16,
25 2017. Mark Olson served his FRCP 26(a)(1) Disclosure on June 19, 2017.

26 No written discovery or depositions regarding the issues of liability and damages has
27 taken place during the ongoing settlement negotiations, which resulted in a signed proposed
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1 Settlement Agreement in early October 2016, and the initial completion of the voting process in
2 March 2018.

3 **C. Statement of discovery remaining to be completed (per LR II 26-4).**

4 The parties are hopeful that the proposed Settlement Agreement will result in a resolution
5 of this matter, and that additional discovery will not be necessary. However, the parties wish to
6 discuss during the requested status conference whether and to what extent any additional
7 discovery may be permitted with regard to the claims of those Plaintiff Direct Lenders who do
8 not approve the proposed Settlement Agreement.
9

10 **D. Statement of reasons why discovery has not been completed (per LR II 26-4).**

11 As set forth above, the parties have not previously conducted discovery on liability and
12 damages issues due to the ongoing productive settlement discussions, which commenced at an
13 early date in this matter following the pleadings / motion-to-dismiss stage, and out of a mutual
14 desire to avoid incurring substantial costs and attorney's fees which may have rendered it more
15 difficult – if not impossible -- for the Compass Defendants to fund the proposed settlement, and
16 which may have increased the costs to the Plaintiff Direct Lenders.
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18 **E. Proposed schedule for completing all remaining discovery (per LR II 26-4).**

19 The parties request a new deadline for filing dispositive motions of not earlier than
20 **August 31, 2018** (an extension of 90 days). The parties further request that the Court entertain a
21 possible longer continuance at the proposed status conference.
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23 The parties further request that the Court enter a new deadline for the parties to submit a
24 proposed Joint Pretrial Order of not earlier than **September 28, 2018** (an extension of 59 days),
25 or in the event one or more dispositive motions are filed, the date for filing the proposed Joint
26 Pretrial Order shall be continued until thirty days after the Court files its decision on the last of
27 the dispositive motions. The parties further request that the Court entertain a possible longer
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1 continuance at the proposed status conference. All motions in limine shall be submitted with the
2 proposed Joint Pretrial Order.

3 **F. Request for status conference.**

4 The parties jointly request a status conference to take place in approximately 60 days to
5 discuss the matters described above.

6 **G. Conclusion.**

7 For the foregoing reasons, the parties to this action respectfully request that the Court
8 enter its Order granted the foregoing relief.
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10 DATED this 17th day of May, 2018.

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12 
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23 DATED this 17th day of May, 2018.

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DATED this 17th day of May, 2018.

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[PROPOSED]

ORDER

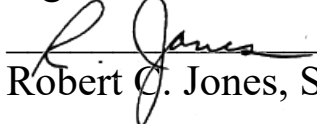
Based on the stipulation and joint motion of the parties hereto, and good cause appearing therefore, it is HEREBY ORDERED the remaining pretrial due dates are extended as follows:

1. The deadline for the filing of dispositive motions shall be August 31, 2018.
2. The deadline for the filing of the proposed Joint Pretrial Order shall be September 28, 2018, but in the event one or more dispositive motions are filed, the date for filing the Joint Pretrial Order shall be continued until thirty days after the Court files its decision on the last of the dispositive motions. All motions in limine shall be submitted with the proposed Joint Pretrial Order.
3. The Court will set a status conference regarding this matter to take place in approximately 60 days, subject to the Court's availability.

IT IS HEREBY ORDERED that a Status Conference is set for 10:00 A.M., Tuesday, August 7, 2018, in Reno Courtroom 3, before Judge Robert C. Jones.

IT IS FURTHER ORDERED that out-of-state counsel who request telephonic appearances shall file a Request to Appear Telephonically with the Court on or before 5:00 P.M., Friday, July 27, 2018.

Signed this 23rd day of May, 2018.


Robert C. Jones, Senior District Judge